

(1) An ICF/IID meets the conditions of participation set forth in subpart I of part 483 of this chapter.

(2) The ICF/IID has been granted a waiver or variance by CMS or the survey agency under subpart I of part 483 of this chapter.

(3) An ICF/IID has been certified with standard-level deficiencies and

(i) All conditions of participation are found met; and

(ii) The facility submits an acceptable plan of correction covering the remaining deficiencies, subject to other limitations specified in § 442.105.

(e) The failure to meet one or more of the applicable conditions of participation is cause for termination or non-renewal of the ICF/IID provider agreement.

[56 FR 48866, Sept. 26, 1991, as amended at 57 FR 43924, Sept. 23, 1992; 59 FR 56236, Nov. 10, 1994]

**§ 442.105 Certification of ICFs/IID with deficiencies: General provisions.**

If a survey agency finds a facility deficient in meeting the standards for ICFs/IID, as specified under subpart I of part 483 of this chapter, the agency may certify the facility for Medicaid purposes under the following conditions:

(a) The agency finds that the facility's deficiencies, individually or in combination, do not jeopardize the patient's health and safety, nor seriously limit the facility's capacity to give adequate care.

(b) The agency finds acceptable the facility's written plan for correcting the deficiencies.

(c) If a facility was previously certified with a deficiency and has a different deficiency at the time of the next survey, the agency documents that the facility—

(1) Was unable to stay in compliance with the standard for ICFs/IID for reasons beyond its control, or despite intensive efforts to comply; and

(2) Is making the best use of its resources to furnish adequate care.

(d) If a facility has the same deficiency it had under the prior certification, the agency documents that the facility—

(1) Did achieve compliance with the standard for ICFs/IID at some time during the prior certification period;

(2) Made a good faith effort, as judged by the survey agency, to stay in compliance; and

(3) Again became out of compliance for reasons beyond its control.

[56 FR 48866, Sept. 26, 1991, as amended at 57 FR 43924, Sept. 23, 1992; 57 FR 54712, Nov. 20, 1992; 59 FR 56236, Nov. 10, 1994]

**§ 442.109 Certification period for ICF/IIDs: General provisions.**

(a) A survey agency may certify a facility that fully meets applicable requirements. The State Survey Agency must conduct a survey of each ICF/IID not later than 15 months after the last day of the previous survey.

(b) The statewide average interval between surveys must be 12 months or less, computed in accordance with paragraph (c) of this section.

(c) The statewide average interval is computed at the end of each Federal fiscal year by comparing the last day of the most recent survey for each participating facility to the last day of each facility's previous survey.

[77 FR 29031, May 16, 2012]

**§ 442.110 Certification period for ICF/IID with standard-level deficiencies.**

(a) Facilities with deficiencies may be certified under § 442.105 for the period specified in either paragraph (b) or (c) of this section.

(b) The survey agency may certify a facility for a period that ends no later than 60 days after the last day specified in the plan for correcting deficiencies. The certification period must not exceed 15 months, including the period allowed for corrections.

(c) The survey agency may certify a facility for up to 12 months with a condition that the certification will be automatically canceled on a specified date within the certification period unless—

(1) The survey agency finds that all deficiencies have been satisfactorily corrected; or

(2) The survey agency finds and notifies the Medicaid agency that the facility has made substantial progress in correcting the deficiencies and has a